IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.796 OF 2005

Kalyan-Dombivli Municipal Corpn. ..Petitioner.

V/s.

Shri Dyaneshwar R.Jadhav ..Respondent.

Mr.I.R.Kulkarni for petitioner.

CORAM : V.C.DAGA, J.

DATED : 20TH APRIL, 2006.

P.C. :-

Heard the learned counsel for the petitioner. Admittedly, the respondent was dismissed from service for remaining absent for a long period. However, no departmental enquiry was held against him. No attempt was made to prove the charges of habitual absence leading to misconduct. Mr.Kulkarni, learned counsel appearing for the petitioner submits that it was obligatory on the part of the Labour Court to call upon the employer to lead evidence. The said submissions is misplaced. At no point of time, the Labour Court have restrained the employer to lead evidence. If the petitioner-employer fails to lead evidence, the employer must thank himself for not leading evidence against the employee to show his misconduct.

2. Mr.Kulkarni also raised the contention that the reference made was delayed. However, this contention was not raised by him before the Labour Court. For the first time, it is raised before this Court. In the circumstances. no case is made out to interfere with the impugned order.

3. Petition stands dismissed in limine with no order as to costs.

******